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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,339	02/06/2004	Eugene A. Helmsie	60,137-207;136-3032-U	5319
83074 7590 04/25/2011 Carlson, Gasky & Olds/Masco Corporation 400 West Maple Road Suite 350 Birmingham, MI 48009				
EXAMINER				
LE, HUYEN D				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10774339	2/6/2004	HELMETSIE ET AL.	60,137-207;136-3032-U

EXAMINER

Huyen Le

ART UNIT**PAPER**

3751

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Commissioner for Patents

The grounds of rejection in the Examiner's Answer is not consistent with the grounds of rejection in the Final Office Action. The correction has been made as followed:

(9) Grounds of Rejection

1. Claims 18, 21-27, 30 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Armstrong (2,036,184). Regarding claim 18, the Armstrong reference discloses a surround comprising a base portion (a floor portion of a room); a first wall portion (the left wall of the room); a second wall portion (the right wall of the room); and a corner portion (formed by the meeting portions of the walls including member 1) engaged with the base portion, the first wall portion and the second wall portion, the corner portion comprising a multiple of horizontal shelf slots (spaces between members 8,9,10) arranged vertically along a length of the corner portion, wherein the horizontal shelf slots comprise blind openings of uniform height that extends into the corner portion to support a corresponding shelves 18 and 19, wherein the base receives the first wall portion and the second wall portion and the corner portion.

The introductory statement of the intended use have been carefully considered but deemed not to impose any structural limitations on the claim(s) distinguishable over the device of Armstrong which is capable of being used in a bathroom or shower surround.

Regarding to claim 21, at least one of the horizontal shelf slots is defined by a top wall portion 8, a bottom wall portion 9, rear wall portion 1, and an open front end.

Regarding claim 22, one of the horizontal shelf slots includes a uniform nominal depth extending into the corner portion.

Regarding claim 23, each of the horizontal shelf slots is adapted to support one of the corresponding multiple of shelves.

Regarding claim 24, the corner portion, the top wall portion 8, the bottom wall portion 9, the arcuate rear wall portion 1 comprise a single continuous piece.

Regarding claim 30, the surround comprises a top rim (the ceiling of a room) engageable with the corner, the first wall and second wall portions.

Regarding claim 33, the horizontal slots forms protrusions 8,9,10 on the rear side of the corner portion.

2. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Armstrong in view of Hine (1,059,464).

Although Armstrong does not disclose multiple segments of the shelf slots arranged horizontally, attention is directed the Hine reference which teaches a shelf structure comprising multiple segment shelf slots (between projections) arranged horizontally. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ slots formed between projections as taught by Hine on the Armstrong shelf device for accommodating different sizes of shelves.

3. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Armstrong in view of Kitamura et al. (4,718,131).

Although Armstrong does not disclose the base portion (bottom wall) having a flange extending from the base portion,

attention is directed to the Kitamura et al. reference which teaches a bottom wall R2 of a bathroom having flange extending therefrom (see flange on the left side of floor R2 in Fig. 18). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ Armstrong shelf device in a room having a bottom wall with a flange extending therefrom in view of the teaching of Kitamura et al., wherein doing so would be an obvious design choice.

4. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Armstrong in view of Kersten (5,768,721).

Although Armstrong does not disclose a shower head, attention is directed the Kersten reference which teaches a shower head 19 mounted on the ceiling of a bathroom. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a shower head on the ceiling of the room in Armstrong as taught by Kersten.

Regarding claim 32, Kersten also teaches a water supply 16 behind the wall, having a water supply behind the wall of Armstrong would have been obvious.

/Huyen Le/
Primary Examiner, Art Unit 3751